

HCS SS#2 SCS SB 590 -- FIRST DEGREE MURDER

Currently, offenders who were under the age of 18 at the time they committed first degree murder must be sentenced to life imprisonment without eligibility for probation, parole, or conditional release. In June 2012, the U.S. Supreme Court in *Miller v. Alabama* held that mandatory life sentences without parole for juvenile criminal offenders are unconstitutional. As a result, there is no punishment for first degree murder under current law in Missouri that is enforceable against those who committed murder before they turned 18.

This bill repeals the mandatory life sentence found to be unconstitutional in *Miller v. Alabama*.

This bill specifies that any person sentenced to a term of imprisonment for life without eligibility for parole before August 28, 2016, who was under 18 years of age at the time of the commission of the offense or offenses, may submit to the parole board a petition for a review of his or her sentence, regardless of whether the case is final for purposes of appeal, after serving 25 years of incarceration on the sentence of life without parole.

Any person found guilty of murder in the first degree who was sentenced on or after August 28, 2016, to a term of life imprisonment with eligibility for parole or a term of imprisonment of not less than 30 years and not to exceed 40 years, who was under 18 years of age at the time of the commission of the offense or offenses may submit to the parole board a petition for a review of his or her sentence, regardless of whether the case is final for purposes of appeal, after serving 25 years of incarceration, and a subsequent petition after serving 35 years of incarceration.

A copy of the petition must be served on the office of the prosecutor in the judicial circuit of original jurisdiction. The petition must include the person's statement that he or she was under 18 years of age at the time of the offense, is eligible to petition for a sentence review, and requests that his or her sentence be reviewed. If any of the required information is missing from the petition, or if proof of service on the prosecuting or circuit attorney is not provided, the parole board must return the petition to the person and advise him or her that the matter cannot be considered without the missing information.

The parole board is required to hold a hearing and determine if the defendant must be granted parole. At the hearing, the victim or victim's family members retain their rights under Section 595.209, RSMo. The board must consider certain specified factors at the

review hearing.

A person found guilty of murder in the first degree who was under the age of 18 at the time of the commission of the offense must be sentenced to a term of life without eligibility for probation or parole, life imprisonment with eligibility for parole, or to a term of imprisonment not less than 30 years and not to exceed 40 years. When assessing punishment in all first degree murder cases in which the defendant was under the age of 18 at the time of the commission of the offense or offenses, the judge in a jury-waived trial shall consider certain specified factors.

The bill specifies that if the state intends to seek a sentence of life without eligibility for probation or parole for a person charged with murder in the first degree who was under the age of 18 at the time of the commission of the offense, the state must file with the court and serve upon the person a written notice of intent to seek life without eligibility for probation or parole. This notice must be provided within 120 days of the person's arraignment upon an indictment or information charging the person with murder in the first degree. For good cause shown, the court may extend the period for service and filing of the notice. Any notice of intent to seek life without eligibility for probation or parole must include a listing of the statutory aggravating circumstances upon which the state will rely in seeking that sentence.

Where the state files a notice of intent to seek life without eligibility for probation or parole, the defendant is entitled to an additional 60 days for the purpose of filing new motions or supplementing pending motions. A notice of intent to seek life without eligibility for probation or parole may be withdrawn at any time by a written notice of withdrawal filed with the court and served upon the defendant. Once withdrawn, the notice of intent to seek life without eligibility for probation or parole cannot be refiled.

After the state has filed a proper notice of intent to seek life without eligibility for probation or parole, the trial must proceed in two stages before the same trier. At the first stage the trier will decide only whether the person is guilty or not guilty of any submitted offense and the issue of punishment must not be submitted to the trier at the first stage. If the trier at the first stage of the trial finds the person guilty of murder in the first degree, a second stage of the trial must proceed at which the only issue will be the punishment to be assessed and declared.

A person found guilty of murder in the first degree who was under the age of 18 at the time of the commission of the offense is eligible for a sentence of life without eligibility for probation

or parole only if a unanimous jury, or a judge in a jury-waived sentencing, finds beyond a reasonable doubt that the victim received physical injuries personally inflicted by the defendant and the physical injuries inflicted by the defendant caused the death of the victim, the defendant was found guilty of first degree murder, and at least one of the specified aggravating factors is present.

This bill repeals obsolete provisions stating that certain trials are to proceed in a single stage.

This bill contains an emergency clause for the provisions regarding the penalty for first degree murder.